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12
13 IN THE UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

v.

17 MARIO GARCIA ET AL,

18 Defendants.

CASE NO. 1:21-CR-00041-DAD-BAM

19 STIPULATION REGARDING EXCLUDABLE
20 TIME PERIODS UNDER SPEEDY TRIAL ACT;
21 FINDINGS AND ORDER

22 DATE: October 27, 2021

23 TIME: 1:00 p.m.

24 COURT: Hon. Barbara A. McAuliffe

25 This case is set for STATUS CONFERENCE on October 27, 2021. Plaintiff United States of
26 America, by and through its counsel of record, and defendant, by and through defendant's counsel of
27 record, hereby stipulate as follows:

28 1. By previous order, this matter was set for status on October 27, 2021.

1. By this stipulation, the parties move to continue the status conference until January 26,
2. 2022, the same date as the proposed status conference for the codefendant in this case, and to exclude
3. time between October 27, 2021, and January 26, 2022, under 18 U.S.C. § 3161(h)(3)(A).

4. The parties agree and stipulate, and request that the Court find the following:

5. a) On July 16, 2021, the Honorable Stanley A. Boone, U.S. Magistrate Judge in and
6. for the Eastern District of California signed a Pretrial Release Violation Petition and issued a
7. bench warrant for the arrest of Isaiah Garcia. The Petition alleges that "on July 15, 2021, the
8. defendant failed to return home by his Court ordered curfew of 8:00 p.m. All attempts to contact

1 and locate the defendant have been unsuccessful and his current whereabouts are unknown.”

2 b) The U.S. Marshals have made and continue to make attempts to locate the
3 defendant but have been unable to find him. His whereabouts are unknown and cannot be
4 determined by due diligence.

5 c) Isaiah is absent, as “his whereabouts are unknown and, in addition, he is
6 attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due
7 diligence.” *See* 18 U.S.C. § 3161(h)(3)(B).

8 d) The Speedy Trial Act provides that “[a]ny period of delay resulting from the
9 absence . . . of the defendant . . .” “shall be excluded in computing the time . . . within which the
10 trial . . . must commence.” 18 U.S.C. § 3161(h)(3)(A).

11 e) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
12 et seq., within which trial must commence, the time period of October 27, 2021 to January 26,
13 2022, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(3)(A) because this period
14 of delay has resulted from the Isaiah Garcia being absent.

15 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
16 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
17 must commence.

18 IT IS SO STIPULATED.

19 Dated: October 15, 2021

PHILLIP A. TALBERT
Acting United States Attorney

20 _____
21 /s/ JUSTIN J. GILIO
22 JUSTIN J. GILIO
Assistant United States Attorney

23 Dated: October 15, 2021

24 _____
25 /s/ Serita Rios
26 Serita Rios
Counsel for Defendant
ISAIAH GARCIA

ORDER

IT IS SO ORDERED that the status conference is continued from October 27, 2021, to **January 26, 2022, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe**. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv), h(3)(A).

IT IS SO ORDERED.

Dated: **October 18, 2021**

/s/ Barbara A. McAuliffe

UNITED STATES MAGISTRATE JUDGE